IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4946 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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FIROZABEN PYARUALI SAIYED WIFE OF DETENU

Versus

COMMISSIONER OF POLICE

Appearance:

MR NM KAPADIA for Petitioner

MR DN PATEL, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 18/02/2000

ORAL JUDGEMENT

The detenu has moved this Court by filing this petition under Article 226 of the Constitution being aggrieved by the order passed by the Commissioner of Police, Surat City on 13.6.1999 under the provisions contained in the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as the Act] a copy of which is kept at Annexure 'A' to the petition [page 26].

2. The grounds of detention dated 13.6.1999, given to the detenu, a copy of which is annexed to the petition at page 27 to 31], disclose that the detenu is a dangerous person. Incidents which took place on several dates are indicated in the Grounds. Reading the Grounds of detention, it appears that the detenu is a dangerous person.

3. In the instant case, it is not necessary to

consider legality of the grounds of detention as the continued detention is required to be held bad and illegal inasmuch as the report has not been made by the detaining authority to the State Government as envisaged in the Act. Section 3 (3) of the Act contemplates that when any order is made under this section by an authorised officer, he shall forthwith report the fact to the State Government together with the grounds on which the order has been made. There is nothing on the record to indicate that the detaining authority has, in adherence to the provisions contained in sub-section (3) of Section 3 has made a report to the State Government. On behalf of the State Government, an affidavit is filed today, but there is nothing in it to indicate when the detaining authority has forwarded its report to the State Government in compliance with sec. 3(3) of the Act. The affidavit only indicates that the representation submitted by the detenu was decided in time.

4. In the aforesaid facts and circumstances of the case, the continued detention of the detenu is held as bad and illegal. The detenu is directed to be released forthwith, if not required in any other case. Rule made absolute accordingly. No order as to costs.

(B.C. PATEL, J.)
csm./